

IV.

Misnomer, Alter-Ego and Assumed Name

In the event any parties are misnamed or not included herein, it is Plaintiff's contention that such was a "misnomer" and/or such parties are/were "alter egos" of parties named herein. It is Plaintiff's contention that Defendant WAL-MART STORES TEXAS, L.L.C. is an assumed name business operating in Fort Bend County, Texas. As such, Plaintiff brings this cause of action against Defendant WAL-MART STORES TEXAS, L.L.C. in its assumed name and relies upon Rule 28 of the Texas Rules of Civil Procedure in order to properly identify Defendant herein.

V.

Venue is proper in Fort Bend County state court because it is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 15.002(a)(1) (Vernon Supp. 2001). Jurisdiction is proper in state court because Plaintiff is a Texas citizen and Defendant is a Texas corporation that is registered and doing business in the state of Texas. Therefore, there is no diversity under 28 U.S.C. § 1332. Plaintiff has been and will continue to be damaged by Defendant in an amount in excess of the minimal jurisdictional limits of the Court.

VI.

This case arises out of personal injuries sustained by Amy Luna on or about March 25, 2017 as a result of the negligence of Defendant. Defendant operates and manages a Wal-Mart store at 11210 W. Airport Blvd. in Stafford, Fort Bend County, Texas. At the time of the incident, Ms. Luna was on the premises of the Wal-Mart store at 11210 W. Airport Blvd. as a

business invitee. While shopping in the store, Ms. Luna was severely injured due to the negligence of Wal-Mart and its employees when she slipped on a large amount of liquid in an aisle of the store and fell. This liquid on the floor of a shopping aisle was an unreasonably dangerous condition, was not cleaned up and there were no warnings present. As a proximate result of Defendant's negligence, Ms. Luna suffered and in all reasonable probability will continue to suffer severe physical pain and mental anguish.

Further, at all times material to the incident made the basis of this lawsuit, all Wal-Mart employees in the store were in the course and scope of their employment with, and were furthering the business of, Defendant Wal-Mart Stores Texas, L.L.C. Therefore, under the doctrine of Respondeat Superior, Defendant is liable for the negligent acts and omissions of its employees.

VII.

As an actual and proximate result of Defendant's negligence, Plaintiff sustained and in reasonable probability will sustain the following damages for which she is entitled to recovery:

- a. Reasonable and necessary medical expenses in the past;
- b. Reasonable and necessary medical expenses that she will in reasonable probability suffer in the future;
- c. Loss of earning capacity in the past;
- d. Loss of earning capacity that she will in reasonable probability suffer in the future;
- e. Physical pain and mental anguish that she has suffered in the past;
- f. Physical pain and mental anguish that she will in reasonable probability suffer in the future;

g. Disfigurement in the past; and

h. Disfigurement that she will with reasonable probability suffer in the future.

By reason of the above and foregoing, Plaintiff would show unto the Court that she has sustained damages in a sum within the jurisdictional limits of this Court.

VIII.

Although the amount to be awarded herein is a matter lying largely within the discretion of the Jury, Plaintiff would show that said amount is within the jurisdictional limits of this Honorable Court. Plaintiff seeks, at this time, only monetary relief over \$200,000.00 but not more than \$1,000,000.00.

WHEREFORE PREMISES CONSIDERED, Plaintiff Amy Luna requests that Defendant Wal-Mart Stores Texas, L.L.C. be cited to appear and answer herein; that upon final trial hereof, Plaintiff have judgment against said Defendant for the full amount of her damages with interest thereon, both pre-judgment and post-judgment, at the legal rate; for costs of court in this behalf expended; and for such other and further relief, special and general, at law and in equity, to which she may show herself justly entitled.

Requests for Production and Request for Admissions are attached and are to be served with Plaintiff's Original Petition.

Respectfully submitted,

THE ESTEFAN FIRM, P.C.

By /s/ Ron Estefan
Ronald M. Estefan
State Bar No. 00785851
2306 Mason Street
Houston, Texas 77006
(713) 333-1100 Telephone
(713) 333-1101 Facsimile
ron@ronestefanlaw.com

ATTORNEY FOR PLAINTIFF



CT Corporation

**Service of Process
Transmittal**

12/24/2018

CT Log Number 534625430

TO: Kim Lundy Service of Process, Legal Support Supervisor
Walmart Inc.
702 SW 8th St, MS#0215
Bentonville, AR 72716-6209

RE: Process Served in Texas

FOR: Wal-Mart Stores Texas, LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Luna Amy, Pltf. vs. Wal-Mart Stores Texas, L.L.C., Dft.
Name discrepancy noted.

DOCUMENT(S) SERVED: Citation, Certificate(s), Original Petition, Request(s)

COURT/AGENCY: 458th Judicial District Fort Bend County, TX
Case # 18DCV257918

NATURE OF ACTION: Personal Injury - Failure to Maintain Premises in a Safe Condition - 03/25/2017,
11210 W. Airport Blvd. in Stafford, Fort Bend County, Texas

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Certified Mail on 12/24/2018 postmarked on 12/20/2018

JURISDICTION SERVED : Texas

APPEARANCE OR ANSWER DUE: By 10:00 a.m. on Monday next following the expiration of 20 days after service
(Document(s) may contain additional answer dates)

ATTORNEY(S) / SENDER(S): Ronald M. Estefan
The Estefan Firm, P.C.
2306 Mason Street
Houston, TX 77006
713-333-1100

ACTION ITEMS: CT has retained the current log, Retain Date: 12/24/2018, Expected Purge Date:
12/29/2018

Image SOP

Email Notification, Kim Lundy Service of Process ctlawsuits@walmartlegal.com


SIGNED: C T Corporation System

ADDRESS: 1999 Bryan Street
Suite 900
Dallas, TX 75201

TELEPHONE: 214-932-3601

ANNIE REBECCA ELLIOTT
FORT BEND COUNTY
DISTRICT CLERK
301 JACKSON
RICHMOND, TX 77469

9434 7266 9904 2125 2344 19



OFFICIAL BUSINESS

Penalty for Private Use

67

WAL-MART STORES TEXAS L.L.C.
REGISTERED AGENT CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE900
DALLAS, TX 75201



U.S. POSTAGE >> PITNEY BOWES
ZIP 77469 \$007.62⁰
02 4W
0000342721 DEC 20 2018

**SERVICE FEE COLLECTED
BY DISTRICT CLERK**

THE STATE OF TEXAS

CITATION

**TO: WAL-MART STORES TEXAS L.L.C.
REGISTERED AGENT CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201**

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on Monday next following the expiration of twenty days after you were served this citation and **PLAINTIFF'S ORIGINAL PETITION; PLAINTIFF'S REQUEST FOR PRODUCTION; PLAINTIFF'S REQUESTS FOR ADMISSIONS** filed on **DECEMBER 18, 2018; DECEMBER 18, 2018; DECEMBER 18, 2018**, a default judgment may be taken against you.

The case is presently pending before the **458TH JUDICIAL DISTRICT COURT** of Fort Bend County sitting in Richmond, Texas. It bears cause number **18-DCV-257918** and is styled:

AMY LUNA VS WAL-MART STORES TEXAS, L.L.C.

The name and address of the attorney for **PLAINTIFF** is:

**RONALD M ESTEFAN
THE ESTEFAN FIRM PC
2306 MASON ST
HOUSTON TX 77006
713-333-1100**

The nature of the demands of said **PLAINTIFF** is shown by a true and correct copy of the **PLAINTIFF'S ORIGINAL PETITION; PLAINTIFF'S REQUEST FOR PRODUCTION; PLAINTIFF'S REQUESTS FOR ADMISSIONS** accompanying this citation and made a part hereof.

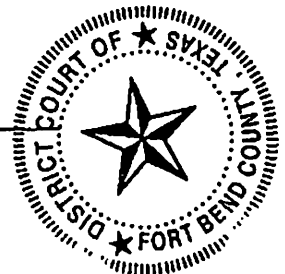
If this Citation is not served, it shall be returned unserved. Issued under my hand and seal of said Court, at Richmond, Texas, on this the 19th day of December, 2018.

**ANNIE REBECCA ELLIOTT, DISTRICT CLERK
FORT BEND COUNTY, TEXAS**

Physical Address:
1422 Eugene Heimann Circle, Room 31004
Richmond, Texas 77469

Mailing Address:
301 Jackson Street
Richmond, Texas 77469

By: Ashley Alaniz
Deputy District Clerk ASHLEY ALANIZ
Telephone: (281) 633-7616



SERVICE

18-DCV-257918

Amy Luna vs Wal-Mart Stores Texas, L.L.C.

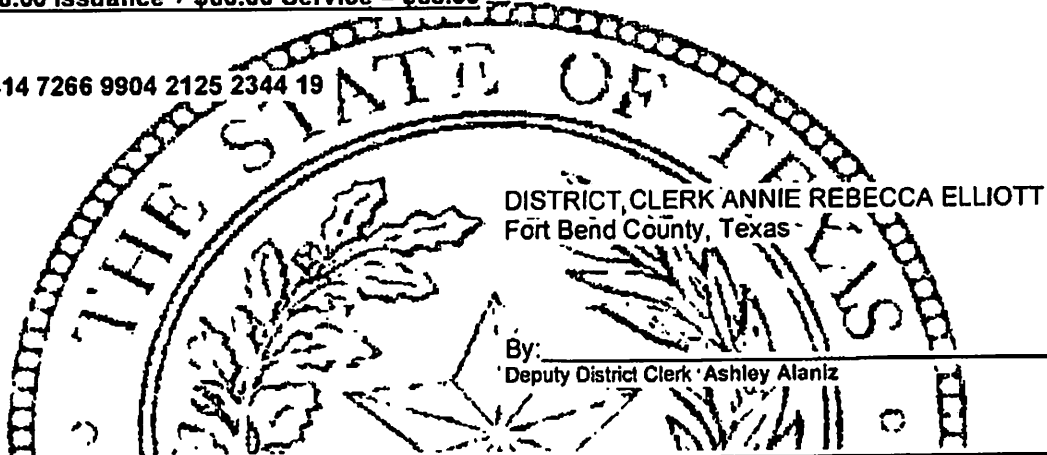
458th Judicial District Court

CERTIFICATE OF DELIVERY BY CERTIFIED MAIL

Came to hand on the _____ at _____ o'clock and executed _____
_____, on the _____, by delivering to the within named _____
_____ by registered or certified mail, with delivery - restricted to addressee only, return receipt
requested, a true copy of this citation together with the accompanying copy of the petition were attached thereto.

Fee..... \$8.00 Issuance + \$80.00 Service = \$88.00

CMRRR# 9414 7266 9904 2125 2344 19



COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable, or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____, my date of birth is _____
(First, Middle, Last)
_____, and my address is _____
(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY, THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____
on the day of _____

Declarant / Authorized Process Server

(Id # & expiration of certification)

SERVICE

Citation (By Certified Mail) issued to Wal-Mart Stores Texas L.L.C. on 12/19/2018.